GIRARD GIBBS
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MEMO ENDORSED

ATTORNEYS AT LAW

March 10, 2017

VIA ECF

Honorable William H. Pauley, III
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007

>   Re: *In re: Topical Corticosteroid Antitrust Litigation*, No. 16-mc-7000
>   *In re: Clobetasol Antitrust Litigation*, No. 16-mc-7229
>   *In re: Desonide Antitrust Litigation*, No. 16-mc-7987
>   *In re: Fluocinonide Antitrust Litigation*, No. 16-mc-8911

Dear Judge Pauley:

        We represent End Payor Plaintiffs in the above-referenced actions, and write with the concurrence of Direct Purchaser Plaintiffs and the U.S. Department of Justice. In accordance with paragraph 26 of Amended Master Case Order No. 1, we write to advise the Court of certain agreements reached between Plaintiffs and the DOJ concerning the conduct of discovery in these actions.

        Since the DOJ submitted its February 28, 2017 letter to this Court (ECF No. 58), Plaintiffs' counsel has conferred with Andrew Ewalt of DOJ. Plaintiffs and DOJ have reached agreement concerning the following parameters for the conduct of discovery in these actions, subject to this Court's approval and any further orders the Court may enter.

        Taro subpoenas and related communications with DOJ. In Amended Master Case Order No. 1, the Court directed Defendant Taro Pharmaceuticals Industries, Ltd. to produce subpoenas and communications with the DOJ by January 26, 2017. ECF No. 27 ¶ 28.[1] When DOJ intervened and advised that it believed that Taro's production of the documents could interfere with DOJ's ongoing criminal investigation, the Court extended Taro's deadline for production to March 31, 2017. ECF No. 26. DOJ has advised that it continues to object to the Taro production. In consideration of the further agreements set forth below, Plaintiffs agree not to seek enforcement of the Court's order at this time and propose that Taro's compliance with Amended Master Case Order No. 1 be adjourned pending further order of the Court.

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[1] "ECF ##" refers to the docket in *In re: Clobetasol Antitrust Litigation,* 16-mc-7229-WHP.

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Document and deposition discovery. Plaintiffs have served requests for production of documents upon Defendants. ECF No. 29 at 6. Defendants have moved to stay discovery entirely. ECF No. 60. Plaintiffs oppose Defendants' request in part, and seek to proceed with document discovery while deferring depositions until further order of the Court.[2] ECF No. 65 at 1. DOJ has no objection to Defendants responding to Plaintiffs' First Set of Requests for Production of Documents (dated January 16, 2017), and takes no position on the disagreement between Plaintiffs and Defendants about whether document discovery should be stayed. DOJ agrees with Plaintiffs' position that depositions should be deferred pending further order of the Court.

Notice of discovery to DOJ. The DOJ has requested that the parties provide notice to DOJ of all discovery served in these actions. The parties and DOJ have conferred, and the parties agree to provide DOJ with copies of discovery when it is served.

Plaintiffs and DOJ therefore respectfully request that the Court enter an order (1) adjourning Taro's compliance with Amended Master Case Order No. 1 pending further order of the Court; (2) deferring depositions (other than depositions described in footnote 2 of this letter) pending further of the Court; and (3) requiring all parties to provide DOJ with copies of all discovery when such discovery is served on any party or non-party.

We appreciate the Court's continued attention to these matters.

Respectfully submitted,

GIRARD GIBBS LLP

/s/ *Daniel C. Girard*

Daniel C. Girard

Application granted.

SO ORDERED:

_____   3/22/17
WILLIAM H. PAULEY III
U.S.D.J.

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[2] Plaintiffs reserve the right to seek to take earlier depositions on non-liability issues relating to the preservation and production of transactional data and other electronically stored information, for example.